

ZONING BOARD OF APPEALS

JUNE 18, 2012 MEETING MINUTES

PRESENT: Chairperson Ron Nolland, Kathy Latinville, Michelle Labounty,
Connie Fisher, Maurica Gilbert, Karl Weiss (Alt.)
Scott DeMane (Alt.) Present for the pre-meeting

ALSO PRESENT: Joseph McMahon, Housing Code Inspector
Derek Bechard
Shallen Wells Brunet
Colin Neimi

Mr. Nolland called the meeting to order at 7:02 PM. The following items were scheduled for tonight's meeting.

APPEAL	APPLICANT	REQUEST
1934	DEREK BECHARD 40 SOUTH PLATT STREET	CLASS B VARIANCE TO CONSTRUCT AN ACCESSORY DETACHED GARAGE WHICH EXCEEDS THE ALLOWED HEIGHT OF 12 FEET
1935	MATTHEW & SHALLEN WELLS BRUNET 1 ERIN AVENUE	CLASS B VARIANCE TO ERECT A 6 FOOT HIGH FENCE WITHIN THE FRONT YARD

There are 5 zoning board members available for voting tonight.

Mr. Nolland advised they would hear the appeals in the above order.

The **first** item on the agenda was Appeal 1934, Derek Bechard for a Class B Variance.

Meter 1:44

Mr. Bechard was in attendance for this appeal. This request is to construct an accessory detached garage which exceeds the allowed height of 12'.

The zoning district is R-2.

Section appealed is 270-18 Accessory Structures.

They have owned the house for 4 years.

Mr. Nolland read into the record the "Area and Dimensional Variances."

Mr. Nolland advised the 12' is the average of the roof from the eaves to the peak. The variance requested is a 2-1/2 foot variance. Mr. McMahon clarified on one side, it shows it being 20', but the average height would have been 14-1/2. Twelve (12') feet is allowed and applicant is asking for 15'.

A Short Form SEQR was submitted with the application.

Mr. Bechard advised he is asking for 15' so he does not hit his head all the time when walking up there. He is 6' 3".

The average level of the property is lower in the rear of the property.

Ms. Gilbert asked if they intend to pave the driveway that goes toward this garage. Mr. Bechard said yes.

Mr. Bechard clarified they need this because they have no storage in their current home.

Mr. Nolland opened up the public hearing portion to the audience. No one spoke from the audience regarding this appeal. [Meter 6:41]

Mr. Nolland reminded the applicant this garage cannot be living space.

MOTION APPEAL #1934:

By Ms. Gilbert,

FOR APPEAL 1934, DEREK BECHARD, 40 SOUTH PLATT STREET, TO HAVE A CLASS B VARIANCE TO CONSTRUCT AN ACCESSORY ATTACHED GARAGE, WHICH EXCEEDS THE ALLOWED HEIGHT OF 12', COMING IN AT 15', WHICH IS A 3' VARIANCE AND SHOWS 6'6" ROOM ON THE SECOND FLOOR, WHICH CAN NEVER BE USED AS LIVING SPACE.

Mr. McMahon then brought up there is a slight problem with the driveway. The existing driveway, currently, as it exists right now, just discovered on a site plan, actually extends over the property line. That was dealt with deed wise when they brought it. Mr. McMahon advised the applicant they definitely cannot go over the property line. It's not the whole driveway just where the "zigzag" is.

Mr. Bechard said the garage will have 2 doors. The Board advised it's the maneuverability.

Mr. McMahon clarified it's getting around the house and staying 3' from the property line.

[Discussion by the Board and Mr. McMahon regarding the property line, Meter 10:27]

Ms. Gilbert then requested to finish the first motion.

Seconded by Mrs. Labounty

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED

DRIVEWAY:

Mr. Nolland said based on Exhibit C, that the area 10' where the existing paving meets the new paving, that they are allowed to be closer than 3' to the property line.

Ms. Labounty added she is not trying to overthink this but is it possible to be tilted a little bit so the water runs back on their side. Mr. McMahon said this would pitch it back toward the house.

Mr. McMahon and Mr. Perry were on site and to keep the new part 3' from the property line, he's going to be 9' where it passes the house. There is nothing that says it cannot be that narrow but he probably needs a little more.

MOTION #1934A:

By Ms. Gilbert, seconded by Mrs. Labounty,

REGARDING APPEAL #1934A, 40 SOUTH PLATT STREET, DEREK BECHARD, AND THE PAVING THAT IS APPARENTLY RIGHT UP TO THE PROPERTY LINE AND BEYOND, THAT THE ORIGINAL PAVING BE ALLOWED FOR A DISTANCE OF 15', TO GO TO THE PROPERTY LINE, AND BE WITHIN 3' OF THE PROPERTY LINE, PLUS ALLOWING A FURTHER 15' WHERE THE NEW PAVING WILL BE PUT IN, WHERE THE DRIVEWAY TURNS, A FURTHER 15' WHERE IT IS ALLOWED TO GO AS FAR AS THE EDGE OF THE PROPERTY LINE, AS IN EXHIBIT C OF THE FILE

ALL IN FAVOR: 5

OPPOSED: 0

MOTION 1934A PASSED

The **second** item on the agenda was Appeal 1935, 1 Erin Avenue, for a Class B Variance.

The applicant has a contract to purchase this property. This appeal is a request to erect a 2 foot high fence within the front yard. Mr. Nolland discussed other variances given for fences in and around this area. Clinton County Planning Department deemed this a local issue. It's an R-2 district. Section appealed is 270-28 G. Fences.

Mr. Nolland read into the record the Area or Dimensional Variances.

The fencing contractor is getting the permit. Mr. Nolland discussed previous appeals when this contractor did not get the permit. Mr. McMahon added this board cannot make the contractor get the permit. Further discussion on who gets the permit. [Meter 21:30]

Mr. Nolland stated this fence will be a foot further away from the property line than the one behind them. Mr. McMahon said that matches the diagram that Freedom Fence submitted. It shows 22' from the house toward College Avenue, which is 3' from the property line.

The PMLD pole was discussed. Mr. McMahon said MLD has an unwritten rule that a fence can go to the pole but beware – if they need to get in there – and it's an emergency – the owner is out of luck. Mr. Nolland reminded the applicant when they put the 4' fence up in the back – they may want to go 10' away from the MLD pole. That way the owner has no issue if PMLD needs to get in there with a loader to fix the pole.

There were no audience comments. Mr. Nolland closed the Public hearing portion. [Meter 24:23] Ms. Labounty understood the need for privacy.

Ms. Gilbert reminded the applicant that the corner of this property has a 30-30' rule that's in place. It's regarding the corner of a property and how you cannot put anything higher than 30 inches, including bushes, trees, fencing, landscaping.

Ms. Brunet said the fence is going to be like the drawing shows.

MOTION:

By Ms. Latinville, seconded by Mrs. Labounty

TO APPROVE APPEAL #1935, FOR MATTHEW AND SHALLEN WELLS BRUNET, 1 ERIN AVENUE, CLASS B VARIANCE TO ERECT A 6' HIGH FENCE WITHIN THE FRONT YARD, ACCORDING TO THE DRAWINGS SUBMITTED TO THE BUILDING INSPECTOR

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED

Meter 29:18

Mr. Colin Neimi, who owns 460 Margaret Street, came unofficially to this meeting to discuss Lakeside Apartments.

Mr. Nolland said there would be no decision made tonight.

Mr. McMahon advised he had filled the board in about the final plans.

Mr. Neimi advised he is still in the preliminary stage of final analysis, whether repairing the complex is any financial merit or to replace the project. He is thinking of 2 replacement projects – one would be condominiums built in phases, similar to the ones on the base. Something between 14 – 16 units, built in 4 or 5 phases.

The other one – which is a bit more complex - is to bring a hotel to the waterfront in the City of Plattsburgh. One of the issues that is difficult with the present zoning is the waterfront overlay and this district, it's restricted to only 2-1/2 stories. One reason why this wouldn't work is part of it the economic viability of hotels. They don't build long hotels. It's more compact.

The more important reason is aesthetic. If they go 2-1/2 stories, the overall footprint is so large that it will end up similar to how Lakeside apartments is now – blocking the view of Lake Champlain.

Mr. Neimi then stated, what he would like to do as a project – is between 5 and 7 stories, so that it's thinner. When you drive along Route 9 – Margaret St. – you will be able to view on both sides of the hotel. He wants to allow as much view to Lake Champlain and allow as much green space as possible on the grounds.

Across the street, you are allowed to build 7 stories with the same size lot. On this side, he is restricted to 2-1/2 stories. So before going into site-specific drawings and spending a fair amount of money, he wanted to know or get feedback on how the committee might feel on going higher but allowing it to be more open to Lake Champlain than is presently.

Ms. Gilbert asked for the section of zoning code for waterfront overlay district.

Ms. Fisher questioned Mr. Neimi on townhouses and/or condo's. Mr. Neimi advised the condo's would be for sale.

[Meter 33:39 Discussion by board on RC-2 district, discussion on conceptual plan, what is the method of making this work, conceptually, without creating precedence, and changing the zoning all over the City, Area and Bulk Controls, for High-rises, in Overlay District, there are very specific sizes of lots, etc.]

Mr. Nolland stated the method to change this, if you want to do this, is to change the ordinance to what is allowed in the Overlay District in general. He further discussed the view sheds, height of building, why is this district RC-1 or RC-2, overlay district, why the applicant cannot use the same high-rise proportions as other places in the City, assuming there is enough lake frontage.

Mr. Nolland further explained most changes to the zoning code go through the Zoning Board and/or the Common Council. The way to change this is to change the zoning ordinance by allowing high rises (example) and this type of situation in the overlay district only. He is not talking spot zoning. He reminded the applicant he has seen no plans of the proposals.

A request to change the ordinance would go to the Common Council. They would hold a public hearing for public comment. Then they would vote on changing the ordinance.

Mr. Nolland continued stating it would be very hard for this board to grant a variance of this magnitude (7 stories) in the waterfront district. Mr. Neimi added the formula to do a high rise is very restrictive. Mr. Nolland stated he doesn't see this board giving a variance to have 7 stories in the waterfront district.

Ms. Gilbert added this would be an extreme variance and very bad precedence. This would be a first for them to look at the waterfront overlay district variance. Mr. Nolland agreed.

Mr. Neimi then asked if this should be a zoning change. Ms. Gilbert said this would not be that quick. Mr. Nolland added it's the quickest way and it's probably 3-4 months.

Mrs. Labounty added they are trying to develop the City beach so could all go together and terms of trying to make Plattsburgh a place for destination for recreation and taking advantage of the lake front. That lake front area really is not open to enjoy. She thought it was worth investigating with the Common Council.

Mr. Nolland is more than happy to meet and help with this project - if he wants to sit down and analyze and meet with him, the BI and whoever and go over the high rise calculations to understand what type of changes would be needed to make this work. How would they limit this so it doesn't get abused in the other parts of the overlay district. He doesn't think this is a bad idea and believes this is taking a piece of property in the silo days and turning it into a pretty nice area at that end of the City.

Ms. Gilbert suggested to contact his "Councilor" and explain his project.

Mr. Neimi asked if the Zoning Board recommends changing the zoning ordinance to the Common Council. The Board said yes. The Common Council can also do it themselves without the recommendation of the Zoning Board. Mr. Neimi asked what they need and added his plans were from an upscale hotel chains he was looking at.

Mr. Nolland said to get a hold of the Building Inspector, set up a meeting with him and Mr. Nolland to see if they can change the ordinance. If they can agree on a zoning change for the Waterfront Overlay District, they will send the change to John Clute and then present it to the Council. This might be a 3 month process.

[Meter: 48:00]

MOTION:

TO ACCEPT AS WRITTEN THE APRIL 16TH, 2012 ZONING MINUTES

By Ms. Fisher, seconded by Ms. Gilbert

ALL IN FAVOR: 4
(Mr. Nolland, Ms. Gilbert, Mrs. Labounty, Ms. Fisher)

OPPOSED: 0

MOTION PASSED

MOTION:

TO APPROVE THE MAY 21TH, 2012 ZONING MINUTES

By Mr. Weiss, seconded by Ms. Fisher

ALL IN FAVOR: 4
(Mr. Nolland, Ms. Gilbert, Ms. Fisher, Mr. Weiss)

OPPOSED: 0

MOTION PASSED

Further questions by Mr. McMahon about a variance for Lakeside properties. Mr. Weiss reminded the zoning was changed near WIRY for Walgreens. Mr. Nolland added they can change the zoning for different areas of the City. RC-1 is more residential than RC-2. There is still the overlay district in the location. The Waterfront Overlay section is Wilcox Dock, Cumberland Avenue, Beach, huge trunk of WPCP, Boat Basin, between RR tracks and water. Lakeside Containers is not in the Overlay District.

Mr. Nolland stated if you look at the Overlay Area and Bulk Controls, in RC-1 and RC-2, the best he could have in RC-2 is 3-1/2 stories. In RC-1, he can only have 2-1/2 stories. RC-1 is very restrictive.

Ms. Gilbert had a meeting with John Clute and they agreed that the Waterfront Overlay District is screwed up. She suggested fixing it. The tables are incorrect.

MOTION TO ADJOURN:

By Ms. Latinville, seconded by Ms. Fisher

ALL IN FAVOR

MOTION PASSED

Meeting adjourned at 8:05 PM

For the purpose of this meeting, this meeting was recorded on the VIQ System. This is a true and accurate copy of the discussion.

Denise Nephew
Secretary
Zoning Board of Appeals